

PROVISIONS

OF THE

Constitution and Statutes of California

Governing the Submission of Measures
to the Whole People by the

Initiative and Referendum

COMPILED BY
The Legislative Counsel Bureau



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PROVISIONS OF THE CALIFORNIA CONSTITUTION RELATING TO THE INITIATIVE AND REFERENDUM.

[Article IV, Section 1, of the Constitution, as amended October 10, 1911.]

The legislative power of this state shall be vested in a senate and assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same, at the polls independent of the legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:"

Legislative power.

Power reserved to people.

Enacting clause.

The first power reserved to the people shall be known as the initiative. Upon the presentation to the secretary of state of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law or amendment to the constitution, set forth in full in said petition, the secretary of state shall submit the said proposed law or amendment to the constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve point black-face type the following: "Initiative measure to be submitted directly to the electors."

The initiative.

Signatures required.

When Secretary of State must submit at election.

Petition to be entitled.

Upon the presentation to the secretary of state, at any time not less than ten days before the commencement of any regular session of the legislature, of a petition certified as herein provided to have been signed by qualified electors of the state equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law set forth in full in said petition, the secretary of state shall transmit the same to the legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the legislature, within forty days from the time it is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the legislature, within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject

When Secretary of State must transmit to legislature.

Legislature can not amend.

Subject to referendum.

If rejected or not acted upon must be submitted at next election.

Legislature may propose substitute.

Petition to be entitled. by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the secretary of state to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve point black-face type the following: "Initiative measure to be presented to the legislature."

The referendum. The second power reserved to the people shall be known as the referendum. No act passed by the legislature shall go into effect until ninety days after the final adjournment of the session of the legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the state, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each house. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; *provided, however,* that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the legislature and declared to be an urgency measure shall go into immediate effect.

Laws go into effect ninety days after adjournment of legislature.

Facts to be set forth.

What not urgency measure.

Urgency measures go into effect immediately.

Signatures required. Upon the presentation to the secretary of state within ninety days after the final adjournment of the legislature of a petition certified as herein provided to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election at which a governor was elected, asking that any act or section or part of any act of the legislature be submitted to the electors for their approval or rejection, the secretary of state shall submit to the electors for their approval or rejection, such act, or section or part of such act at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Submission at general or special election.

Referendum against part of act.

Takes effect five days after declaration of vote. Any act, law or amendment to the constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declara-

tion of the vote by the secretary of state. No act, law or amendment to the constitution, initiated or adopted by the people, shall be subject to the veto power of the governor, and no act, law or amendment to the constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by the proponents and opponents thereof, shall be mailed to each elector in the same manner as now provided by law as to amendments to the constitution, proposed by the legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the senate.

Not subject to veto.

Amendment or repeal.

Conflicting provisions.

Printed with arguments.

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the constitution, proposed by the legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

When submitted at later election.

All measures to be submitted.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the state shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified

Petition may be filed in sections.

Formal requisites.

Who may solicit.

Verification free.

Prima facie evidence.

free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

Filing of sections.

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty

Clerk to determine sufficiency within twenty days.

days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same,

Clerk to certify and transmit to Secretary of State.

and if necessary the board of supervisors shall allow said clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said

Copy in Clerk's office.

clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the

Supplemental petition within forty days.

result of said examination and shall forthwith transmit said petition, together with his said certificate, to the secretary of state and also file a copy of said certificate in his office. Within

Ten days to determine sufficiency of supplemental petition.

forty days from the transmission of the said petition and certificate by the clerk or registrar to the secretary of state, a supplemental petition identical with the original as to the body

of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk

or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as

of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate,

properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the secretary of state.

Certificate of Secretary of State.

When the secretary of state shall have received from one or more county clerks or registrars of voters a petition certified as

When petition deemed filed.

herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county

Duty of Clerk.

in the state his certificate showing such fact. A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing said

Registrar of Voters.

petition to be signed by the requisite number of electors of the state. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and town of the state, to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and towns, but shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or counties having charters adopted under the provisions of section eight of article eleven of this constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this state, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.

Municipalities.

General laws.

Section self-executing.
Legislation to facilitate operation.

ATTORNEY GENERAL TO PREPARE TITLE AND SUMMARY FOR INITIATIVE MEASURES.

[Political Code, Section 1197*a*, adopted 1915—Chapter 42, Statutes of 1915.]

Title and
summary to
be prepared
prior to
circulation.

It shall be the duty of the proponents of any initiative measure relating to the constitution or the laws of the State of California, prior to circulating any petition for signatures thereon, to submit a draft of said petition to the attorney general with a request that he prepare a title, and summary of the chief purposes and points of said proposed measure. Such title and summary shall forthwith be prepared in the manner provided for the preparation of ballot titles in paragraph three of section one thousand one hundred ninety-seven of the Political Code. Said title and summary shall not exceed one hundred words in all.

Not to
exceed one
hundred
words.

HEADING ON EACH PAGE OF PETITION.

[Political Code, Section 1197*b*, adopted 1915—Chapter 42, Statutes of 1915.]

Heading.

The proponents of any proposed initiative measure shall place upon each section of the petition in relation thereto above the text of the measure the title and summary referred to in section one thousand one hundred ninety-seven *a* of the Political Code not exceeding one hundred words in all. Across the top of each page of any petition asking that any act or section, or part of any act of the legislature be submitted to the electors for their approval or rejection, there shall be printed in twelve-point black-face type the following:

“REFERENDUM AGAINST AN ACT PASSED BY THE
LEGISLATURE.”

Short
title.

Across the top of each page after the first page of every initiative, referendum or recall petition or section thereof which may be prepared and circulated in accordance with law there shall be printed in eighteen-point gothic type a short title, in not to exceed twenty words, showing the nature of the petition and the subject to which it relates.

When not
filed.

No officer chargeable by law with receiving or filing in his office any initiative, referendum or recall petition shall receive or file any such petition which does not conform with the provisions of this section. This section shall apply only to initiative, referendum and recall measures affecting the constitution or laws of the state, or state officers.

CO-OPERATION IN PREPARATION OF INITIATIVE MEASURES BY CHIEF OF LEGISLATIVE COUNSEL BUREAU.

[Chapter 41, Statutes of 1915.]

* * * It shall also be the duty of the chief of the legislative counsel bureau, whenever in his judgment there is reasonable probability that an initiative measure will be submitted to the voters of the State of California under the laws of the state relating to the submission of measures by initiative, to co-operate with the proponents of said measure in the preparation of said law when requested in writing so to do by twenty-five or more electors proposing such a measure.

When chief
of legislative
counsel
bureau to
co-operate.

WHO QUALIFIED TO SIGN PETITION.

[Political Code, Section 1083*a*, as amended by Chapter 138, Statutes of 1915.]

Wherever, by the constitution or laws of this state, any initiative, referendum, recall or nominating petition or paper, or any petition or paper, is required to be signed by qualified electors, only an elector who is a registered qualified elector at the time he signs such petition or paper shall be entitled to sign the same, and no elector shall be entitled to sign any such petition or paper on or after the first day of January of an even-numbered year unless he shall, on or since said first day of January, have made an affidavit of registration as required by law. Such signer shall at the time of so signing such petition or paper affix thereto the date of such signing. Wherever, by the constitution or laws of this state, the county clerk or registrar of voters is required to determine from the records of registration what number of qualified electors have signed such petition or paper, he shall determine that fact with respect to the purported signature of any person from the affidavit of registration, and records relating thereto, current and in effect at the date of such signing of such petition or paper.

Only
elector on
latest
registration
can sign.

Date to be
affixed to
signature.

Qualification
to be deter-
mined from
current
registration.

PENALTY FOR SIGNING FICTITIOUS NAME OR NAME OF ANOTHER.

[Penal Code, Section 472*a*, adopted 1915—Chapter 43, Statutes of 1915.]

Every person who subscribes to any initiative, referendum or recall petition or to any nominating petition a fictitious name, or who subscribes thereto the name of another, is guilty of a felony and is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

PENALTY FOR MISREPRESENTATION AS TO PETITIONS, FOR UNLAWFUL CIRCULATION AND FILING THEREOF, FOR SIGNING SUCH PETITION MORE THAN ONCE, ETC.

[Penal Code, Section 64b, adopted 1915—Chapter 49, Statutes of 1915.]

Misrepresentation as to contents or effect.

1. It shall be unlawful for any person circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any petition authorized or provided for by the constitution or laws of the State of California regulating the initiative, referendum or recall to misrepresent or make any false statement concerning the contents, purport or effect of any such petition to any person who signs, or who desires to sign, or who is requested to sign, or who makes inquiries with reference to any such petition, or to whom any such petition is presented for his or her signature.

2. It shall be unlawful for any person to wilfully or knowingly circulate, publish or exhibit any false statement or misrepresentation concerning the contents, purport or effect of any petition mentioned in this section for the purpose of obtaining any signature to any such petition or for the purpose of persuading any person to sign any such petition.

Filing or receiving petition with signatures not genuine.

3. It shall be unlawful for any person to file in the office of the clerk or other officer provided by law to receive such filing, any petition mentioned in this section to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition or whose name is attached, appended or subscribed thereto.

Circulating petition improperly signed.

4. It shall be unlawful for any person to circulate, or cause to be circulated, any petition mentioned in this section, knowing the same to contain false, forged or fictitious names.

False affidavit.

5. It shall be unlawful for any person to make any false affidavit concerning any petition mentioned in this section or the signatures appended thereto.

False certification.

6. It shall be unlawful for any public official or employee knowingly to make any false return, certification or affidavit, concerning any petition mentioned in this section, or the signatures appended thereto.

Signing more than once or without being qualified.

7. It shall be unlawful for any person to knowingly sign his own name more than once to any petition mentioned in this act, or to sign his name to any such petition knowing himself at the time of such signing not to be qualified to sign the same.

Penalty.

8. Any person, either as principal or agent, violating any of the provisions of this section is punishable by imprisonment in the state prison, or in a county jail, not exceeding two years, or by fine not exceeding five thousand dollars, or by both.

PRINTING OF PAMPHLETS.

[Political Code, Section 1195*a*, as amended by Chapter 540, Statutes of 1915.]

The secretary of state shall cause to be printed at the state printing office one and one-fifth times as many pamphlets as there are registered voters in the state. Such pamphlets shall contain a complete copy of all constitutional amendments, propositions and measures submitted to a vote of the electors of the state by the legislature, or by initiative or referendum petition, a copy of the corresponding constitutional or statutory provisions as then in force, if any, and a copy of the statements provided for in section one thousand one hundred ninety-five in this code and in section one, article four of the constitution of the State of California. The parts of the proposed amendments differing from the existing provisions shall therein be distinguished in print, so as to facilitate comparison. All questions, propositions, measures and constitutional amendments which are to be submitted to a vote of the electors shall be printed in said pamphlets, so far as possible, in the same order, manner and form in which the same shall be designated upon the ballot and shall be designated thereon by the respective ballot titles or designations which may be provided therefor. Said ballot titles shall be numbered consecutively and printed on the pamphlets herein referred to immediately prior to the particular question, proposition, measure or constitutional amendment therein referred to. There shall also be printed on said pamphlets the copy of said ballot title or designation as the same will appear on the ballots when voted on in the order and with the proper number which ballot title or designation shall be the method by which said questions, propositions and constitutional amendments shall be designated on the ballots.

Number of pamphlets

Contents.

Order.

Ballot titles.

DISTRIBUTION OF PAMPHLETS.

[Political Code, Section 1195*b*, adopted in 1915—Chapter 540, Statutes of 1915.]

The secretary of state shall duly, and not less than thirty days before the election next ensuing at which such amendments, propositions, measures or questions are to be voted on, certify such pamphlet and the matters contained therein and furnish each county clerk in the state with one and one-fifth times as many copies of such pamphlets as there are registered voters in his county. The clerk of each county shall not more than twenty-five days, nor less than fifteen days prior to said election, cause to be mailed to each voter a copy of such pamphlet and no other publication of such amendments, propositions, measures, questions or statements shall be necessary or authorized. Three copies of such pamphlets, to be supplied by the secretary of state, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the electors.

Pamphlets to be certified and sent to Clerks thirty days before election.

Clerk to mail to voters.

Copies in polling places.

PRESERVATION OF PETITIONS.

[Political Code, Section 1194, adopted 1915—Chapter 152, Statutes of 1915.]

The secretary of state shall preserve for a period of four years in his office all initiative, referendum and recall petitions filed therein under the provisions of law and shall thereafter destroy the same unless they have been introduced in evidence in some action or proceeding then pending.

SUMMARY OF PRINCIPAL REQUIREMENTS RELATING TO THE CIRCULATION AND SIGNING OF INITIATIVE AND REFERENDUM PETITIONS.

1. Before circulating any initiative petition for signatures, the proponents of the measure must submit a draft of the petition to the Attorney General in order that he may prepare therefor a title and summary. Such title and summary must be placed upon each section of the petition. Every initiative petition proposing a law or constitutional amendment for submission to the electors shall have printed across the top thereof, in twelve point black-face type, the words: "Initiative measure to be submitted directly to the electors."

2. Each page of every petition proposing to submit to the electors any act of the legislature must have printed across the top in twelve point black-face type the words: "Referendum against an act passed by the Legislature."

3. Every initiative or referendum petition or section thereof must have printed across the top of each page after the first page, in eighteen point gothic type, a short title not to exceed twenty words.

4. No one can circulate an initiative or referendum petition who has not registered in the current registration; that is to say, no one can circulate such a petition in 1916 or 1917 who has not registered since January 1, 1916.

5. One can circulate such a petition only in the county in which he is a qualified elector.

6. No one can sign such a petition unless he is a registered qualified elector at the time he signs; that is to say, no one can sign such a petition in 1916 or 1917 unless he has registered since January 1, 1916. In determining the sufficiency of the signatures to such petition, the county clerk or registrar of voters can consult only the current registration. An elector can sign such a petition only once. A supplemental petition can bear only supplemental names, not names that were attached to the original petition.

7. The signer of such petition must, at the time of signing, affix his place of residence, giving the street and number if such exist, and the date of such signing.

8. The circulator of each section of such petition must make affidavit stating, amongst other things, that all the signatures in such section were made in his presence.

9. A married woman should sign her own Christian name, not that of her husband.

10. No fee can be charged by any officer authorized to administer oaths for verifying the affidavit of any person soliciting signatures to such petition.

11. Each section of such petition must be filed with the clerk or registrar of voters of the county in which it was circulated, but all such sections must be filed at the same time.

12. One who signs to any initiative or referendum petition a fictitious name or the name of another is guilty of a felony and is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

13. Punishment by imprisonment for not exceeding two years or by fine not exceeding five thousand dollars or by both, is prescribed for any person who, as principal or agent—

a. When circulating, or in control of the circulation of, such petition, misrepresents or makes any false statement “concerning the contents, purport or effect of any such petition, to any person who signs or who desires to sign or who is requested to sign or who makes inquiries with reference to any such petition, or to whom any such petition is presented for his or her signature.”

b. Wilfully or knowingly circulates, publishes or exhibits any false statement or misrepresentation concerning the contents, purport or effect of any such petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition.

c. Files in the office prescribed for such filing a petition bearing a signature which the person filing knows to be other than the genuine signature which it purports to be:

d. Circulates or causes to be circulated a petition containing false, forged or fictitious names.

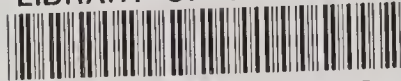
e. Makes any false affidavit concerning any petition or the signatures appended thereto.

f. Makes, as public official or employee, any false returns, certification or affidavit concerning any petition or the signatures thereon.

g. Signs any petition more than once or signs at a time when he knows he is not qualified to sign.

14. Except those acts which the Constitution declares may go into immediate effect, an act passed by the legislature goes into effect “ninety days after the final adjournment of the session of the legislature which passed such act.” No act can be delayed from going into effect by the filing against it of a referendum petition unless such petition, complete in all respects as prescribed by the Constitution, is presented to the secretary of state “within ninety days after the final adjournment of the legislature.”

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